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OLL 85-0818
12 March 1985

MEMORANDUM FOR: Chief, Administrative Law Division/OGC
Deputy Director for Administration

FROM: [redacted] STAT
Deputy Chief, Office of Legislation/OLL

SUBJECT: Military Medical Tort Claims (H.R. 1161)

1. Attached herewith for your information is a copy of H.R. 1161; introduced by Congressman Frank and referred to the Judiciary Committee. This proposed legislation would amend the Federal Tort Claims Act so that members of the Armed Forces can sue the government for medical and dental malpractice.

2. In essence the bill would reverse in part the so-called Feres Doctrine (Feres v. U.S., 340 U.S. 135) which barred suits by one member of the military against another member or against the government for any act incident to military service. Three reasons for barring suits among the military are: 1) the adversarial process of litigation is disruptive of military unity, 2) there is a reasonable alternative compensation system for injured military personnel, and 3) military activity is inherently dangerous and opening the government to medical malpractice suits would be too costly in terms of time and money; physicians and medical support personnel would be tied up in litigation rather than focusing on military preparedness.

3. Congressman Frank is on the subcommittee of House Judiciary that has jurisdiction over the Federal Tort Claims STAT Act. In addition, several influential Congressmen have cosponsored the bill.

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